



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2016-0520; FRL-9952-65-Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State

Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Louisiana State Implementation Plan (SIP) submitted by the State of Louisiana through the Louisiana Department of Environmental Quality (LDEQ) on August 11, 2016 that addresses regional haze (RH) for the first planning period. This revision was submitted to address deficiencies identified in a previous action regarding requirements of the Federal Clean Air Act (CAA or Act) and the EPA's rules that require states to prevent any future and remedy any existing man-made impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program"). This action concerns Best Available Retrofit Technology for certain sources.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2016-0520, at <http://www.regulations.gov> or via email to huser.jennifer@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Jennifer Huser, 214-665-7347, huser.jennifer@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Jennifer Huser, 214-665-7347, huser.jennifer@epa.gov. To inspect the hard copy materials, please schedule an appointment with Jennifer Huser or Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

A. The Regional Haze Program

In the Clean Air Act (CAA) Amendments of 1977, Congress established a program to protect and improve visibility in the Nation's national parks and wilderness areas. See CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. See CAA section 169B. The EPA promulgated regional haze regulations in 1999 to implement sections 169A and 169B of the CAA. These regulations require states to develop and implement plans to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas¹ (Class I areas). See 64 FR 35714 (July 1, 1999); see also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

Regional haze is impairment of visual range or colorization caused by air pollution, principally fine particulate, produced by numerous sources and activities, located across a broad regional area. The sources include but are not limited to, major and minor stationary sources, mobile sources, and area sources including non-anthropogenic sources. These sources and activities may emit fine particles (PM_{2.5}) (*e.g.*, sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (*e.g.*, sulfur dioxide (SO₂), nitrogen oxides (NO_x), and in some cases, ammonia and volatile organic compounds). Fine particulate can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid deposition and eutrophication. See 64 FR at 35715. Data from the existing visibility monitoring network, the “Interagency Monitoring of Protected Visual Environments”

¹ Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, the EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to “mandatory Class I Federal areas.” Each mandatory Class I Federal area is the responsibility of a “Federal Land Manager.” 42 U.S.C. 7602(i). When we use the term “Class I area” in this action, we mean a “mandatory Class I Federal area.”

(IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time in most national parks and wilderness areas. The average visual range in many Class I areas in the western United States is 100-150 kilometers, or about one-half to two-thirds the visual range that would exist without manmade air pollution.² Visibility impairment also varies day-to-day and by season depending on variations in meteorology and emission rates. The deciview (dv) is the metric by which visibility is measured in the regional haze program. A change of 1 dv is generally considered the change in visual range that the human eye can perceive.

B. Best Available Retrofit Technology

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources with the potential to emit greater than 250 tons per year (tpy) or more of any visibility impairing pollutant in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the Act requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources³ built between 1962 and 1977 procure, install, and operate the “Best Available Retrofit Technology”, as determined by the state or us in the case of a plan promulgated under section 110(c) of the CAA. Under the Regional Haze rule, states are directed to conduct BART determinations for such “BART-eligible” sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area.

² 64 FR at 35715.

³ The set of “major stationary sources” potentially subject to BART are listed in CAA section 169A(g)(7).

We promulgated regulations addressing Regional Haze in 1999, 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P.⁴ These regulations require all states to submit implementation plans that, among other measures, contain either emission limits representing BART for certain sources constructed between 1962 and 1977, or alternative measures that provide for greater reasonable progress than BART. 40 CFR 51.308(e).

C. EPA's Previous Actions on Louisiana Regional Haze

On June 13, 2008, Louisiana submitted a SIP to address regional haze. EPA acted on that submittal in two separate actions. The first was a limited disapproval (77 FR 33641) because of deficiencies in the state's regional haze SIP submittal arising from the remand by the U.S. Court of Appeals for the District of Columbia to the EPA of the Clean Air Interstate Rule (CAIR). The second was a partial limited approval/partial disapproval (77 FR 39425) because the SIP revision met some but not all of the applicable requirements of the CAA and EPA's regulations as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300-308, but as a whole, the SIP revision strengthened the SIP. The deficiencies included inadequate Best Available Retrofit Technology (BART) determinations for four facilities. These four facilities are the only non-electric generating unit (EGU) facilities in Louisiana that were identified as being subject to BART and are referred to as the non-EGU facilities.

On August 11 2016, Louisiana submitted a SIP revision intended to address the deficiencies related to BART for the four non-EGUs.

II. The EPA's Evaluation

A. Introduction to the four non-EGU facilities: Summary

⁴ In *American Corn Growers Ass'n v. EPA*, 291 F.3d 1 (D.C. Cir. 2002), the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling vacating and remanding the BART provisions of the regional haze rule. In 2005, we issued BART guidelines to address the court's ruling in that case. See 70 FR 39104 (July 6, 2005).

The four non-EGU facilities are: Phillips 66 Company-Alliance Refinery; Mosaic Fertilizer LLC, Uncle Sam Plant; Eco-Services Operations Corp.; and Sid Richardson Carbon Co., Addis Plant. For three facilities (Phillips 66, Eco-Services, and Sid Richardson), LDEQ had submitted a BART analysis under 40 CFR 51.308(e)(1)(ii)(A). For each of these facilities, we determined, in our July 3, 2012 notice, that the BART analysis satisfied part, but not all, of the requirements. We also found that LDEQ had erred in exempting Mosaic from BART by using future controls and visibility impacts rather than assessing controls that were in place at the time of the SIP submittal.

In its August 11, 2016 SIP submittal, LDEQ provided revised BART analyses for the three facilities to address the deficiencies noted in the previous Regional Haze SIP action. LDEQ has also provided a BART analysis for Mosaic. A summary of our proposed findings for these facilities is provided below. For more details, please see our evaluation of the BART determination for each of these four subject-to-BART sources in the TSD.

A. Sid Richardson Carbon Co.

The Sid Richardson Carbon Company's Addis Plant is located in West Baton Rouge Parish, Louisiana. For the BART eligible units at the facility, LDEQ submitted in the original Regional Haze SIP a BART engineering analysis; for particulate matter the LDEQ determined that the high efficiency fabric filters already in use at the facility are BART. EPA found that the LDEQ acted within its discretion in making this determination and that the analyses met the BART requirements. However, the EPA found that the BART analysis for NO_x and SO₂ were deficient. While LDEQ indicated that no controls were technically feasible, EPA found that the record did not provide a sufficient basis for this conclusion. Based on this, the NO_x and SO₂ BART determination for the Addis Plant was deemed deficient (77 FR 11851).

The original modeling that was performed showed that the facility had an impact that was above the contribution threshold of 0.5 deciview level for determining which sources are subject to BART. The Addis plant model results were 0.756 deciviews.

In response to the EPA action, Sid Richardson revised the BART analysis and updated the modeling. The facility requested permission to perform a new round of modeling using the same emissions parameters that were used in the original model but utilizing the newest EPA approved methods and guidance documents. EPA reviewed and concurred with the methodology and modeling results provided by Sid Richardson. Based on this analysis, LDEQ concluded that the facility is not subject-to-BART because its model visibility impact was less than 0.5 deciviews. We have evaluated LDEQ's submittal and propose to approve the Sid Richardson BART analysis and modeling and the LDEQ's finding that the Addis plant is not subject-to-BART.

B. Phillips 66 Company-Alliance Refinery (formerly ConocoPhillips)

The Phillips 66 Company (Phillips 66) owns and operates the Alliance Refinery near Belle Chasse, Louisiana, which is a subject-to-BART source.⁵ On December 5, 2005, Conoco Phillips, the United States of America and the State of Louisiana, entered into a Consent Decree (CD)⁶ as part of the National Refinery Initiative for the Belle Chasse (Alliance) Refinery. In our previous action, we found that the BART engineering analysis provided by Phillips 66 utilized emission reductions that are mandated per the CD for the fluidized catalytic cracker (FCCU), the process refinery flares and the crude unit heater. However, the LDEQ did not provide a complete

⁵ At the time of Louisiana's initial Regional Haze SIP, the Alliance Refinery was owned and operated by ConocoPhillips. Ownership of the Alliance Refinery transferred to Phillips 66 on April 26, 2012. Pursuant to the Separation and Distribution Agreement between the companies, responsibility for compliance with the environmental permits now resides with Phillips 66 Company.

⁶ Civil Action No. H-05-0285. A copy of this CD is available in the docket for this rulemaking.

BART evaluation for these units. In the August 11, 2016 SIP revision, LDEQ provided a complete BART determination for these units. Controls and conditions required by the CD include a wet gas scrubber on the FCCU, selective catalytic reduction (SCR) on the FCCU and crude unit heater, flare gas recovery for the process refinery flares, and compliance with the Standards of Performance for Petroleum Refineries as prescribed in 40 CFR part 60, subpart J for the low pressure and high pressure flares, CO boilers, and crude unit heaters. Implementation of these control projects as per the CD emissions reduction requirements have resulted in reducing the overall site visibility impacts. In the previous action, we also found that the LDEQ failed to submit the emissions limits as part of the SIP revision as required. The emissions limits are now included in an Administrative Order on Consent (AOC) No. AE-AOC-14-00211A between LDEQ and Phillips 66 and were provided in the August 11, 2016 SIP revision.

In our initial action on Louisiana Regional Haze, we approved LDEQ's BART determinations for several other subject to BART units at the Alliance Refinery. These units include the cooling water tower, gas-fired heaters, loading docks, and the coke transfer and storage area. See 77 FR at 39432. However, at that time, LDEQ did not submit the BART emissions limits for approval into the SIP. The BART emissions limits for these units are also included in AOC No. AE-AOC-14-00211A.

EPA proposes to find that the current controls installed and operating conditions at these subject to BART units constitute BART. The emissions limits for all of the subject to BART units at the Alliance Refinery are included in the AOC in accordance with 40 CFR 51.308(4)(e). Upon EPA approval of this portion of the Regional Haze SIP submittal, the AOC becomes federally enforceable. We propose to approve the BART analysis and the emission limits for Phillips 66 as meeting the BART requirements.

C. Mosaic Fertilizer LLC

Mosaic Fertilizer, LLC, owns and operates the Uncle Sam Plant (Mosaic) in St. James Parish, Louisiana and produces phosphoric acid and sulfuric acid. In our previous action, we partially disapproved Louisiana's Regional Haze SIP for failure to identify Mosaic as subject to BART and failure to submit a BART determination for Mosaic.

In Louisiana's initial Regional Haze SIP submittal, the LDEQ used a contribution threshold of 0.5 dv for determining which sources are subject to BART, and we approved this threshold in our previous action. See, 77 FR at 11849. The Regional Haze Rule states that a BART eligible source can only be exempted from being subject to BART if its visibility impacts at the time the SIP is developed are less than the screening value. See, 70 FR 39118; 77 FR at 11849.

In the original Regional Haze SIP submittal, the LDEQ properly identified Mosaic as a BART eligible source consistent with the BART Guidelines. However, LDEQ's initial SIP submittal inappropriately allowed Mosaic to screen out based on controls that were not installed at the time of the submittal. LDEQ accepted Mosaic's modeling, which was based on future controls that were to be installed on the A-Train Sulfuric Acid Stack. Based on the modeling results, the LDEQ listed the facility as passing both the screening modeling as well as the refined modeling. As such, LDEQ erroneously determined that the facility was not subject to BART and, therefore, was not required to perform a BART analysis.

In our final action (77 FR at 39429), we determined that the state should have identified the Mosaic facility as being subject to BART and submitted a BART determination for the source. Mosaic entered into a CD with the EPA, LDEQ and other parties on December 23,

2009.⁷ The CD required the installation of controls on the Sulfuric Acid Trains A, D, and E, including a scrubber system on the A Train and process improvements on the D Train. These controls resulted in a reduction in SO₂ emissions of over 10,000 tons per year. In its SIP revision, LDEQ provided a complete BART analysis concluding that additional control beyond those required by the consent decree would not be necessary to meet BART. Based on a review of the BART analysis and LDEQ's determination, EPA agrees that Mosaic, with its current controls and operating conditions, has satisfied BART. The emissions limits for Mosaic under current controls and operating conditions are included in AOC No. AE-AOC-14-00274A which was included in the August 11, 2016 SIP revision in accordance with 40 CFR 51.308(4)(e). Upon EPA approval of this portion of the Regional Haze SIP submittal, the AOC becomes federally enforceable. We propose to approve the BART analysis and the emission limits for Mosaic.

D. Eco-Services Operations Corp (formerly Rhodia)

The Eco-Services Operations Corp facility (Eco-Services) is a sulfuric acid plant located in Baton Rouge, Louisiana.⁸ The plant produces sulfuric acid by using two sulfuric acid production trains, Unit 1 and Unit 2, but only Unit 2 is subject to BART.⁹ Effective July 23, 2007, the EPA, LDEQ and other parties entered into a CD with Eco-Services due to violations

⁷ Civil Action No. 09-6662. A copy of this CD is available in the docket for this rulemaking.

⁸ At the time of Louisiana's initial Regional Haze SIP, the facility was owned and operated by Rhodia. Effective October 1, 2013, Rhodia Inc. changed its company name and the name of the facility from Rhodia Inc. to Solvay USA Inc. The LDEQ Office of Environmental Services acknowledged the name change in correspondence, dated November 1, 2013. On December 1, 2014, Solvay USA Inc. transferred ownership and operation of the facility to Eco Services Operations LLC. Pursuant to the agreement between the companies and the Department's approval of the permit transfer, responsibility for compliance with the terms and conditions of Permit No. 0840-00033-V5 now resides with Eco Services Operations LLC. Pursuant to the Separation and Distribution Agreement between the companies, responsibility for compliance with the environmental permits now resides with Eco-Services.

⁹ Under the CAA, BART only applies to a unit that was "in existence on August 7, 1977, but which has not been in operation for more than fifteen years as of such date." 42 U.S.C. 7491(b)(2)(A); CAA 169A(b)(2)(A). Unit 1 was constructed in 1953, which is outside the BART timeframe. However, Unit 2 was constructed in 1968.

associated with excess emissions of sulfuric acid mist and sulfur dioxide. The CD required a scrubber to be installed on each of the units to control SO₂ emissions.¹⁰

In the July 23, 2012 action (77 FR at 39426), EPA found that with the selected control strategy, the Eco-Services units met the BART requirements at 40 CFR part 51, Appendix Y.OV.D.1.9.¹¹ However, EPA found that the LDEQ failed to submit the emissions limits as part of the SIP revision as required. The emissions limits are included in the AOC No. AE-AOC-14-00957 between LDEQ and Eco-Services, which was provided in the August 11, 2016 SIP revision.

In the BART analysis, Eco-Services identified both a short term and long term limit control level for SO₂. The long term emissions limits for Eco-Services under current controls and operating conditions are included in the AOC in accordance with 40 CFR 51.308(4)(e) and are federally enforceable. The short term limit provided in the BART analysis is 3 lbs/ton, consistent with the limits established in the Consent Decree. The long term limit in the Consent Decree includes an exemption for emissions during startup shutdown and malfunction. However, the short term emissions are limited by the New Source Performance Standard (NSPS) for Sulfuric Acid Plants (40 CFR part 60, subpart H). This short term limit is applicable at all times and is adequate to meet BART during periods of startup and shutdown. EPA concurs with LDEQ's evaluation and findings that the current controls in place, along with the federally enforceable limits established in the AOC and through applicability to the NSPS standard, constitutes BART. We propose to approve the BART analysis and the emission limits for Eco-Services. Upon approval the limits in the SIP these limits will be federally enforceable.

¹⁰ Civil Action No. 2:07CV134 WL. A copy of this CD is available in the docket for this rulemaking.

¹¹ We acknowledge that compliance with the BART Guidelines in 40 CFR part 51, Appendix Y is not mandatory for Eco-Services because Eco-Services is a non-EGU source. However, following these Guidelines is one option for subject-to-BART non-EGUs to ensure BART determinations are adequate.

III. Proposed Action

We are proposing to approve Louisiana's Regional Haze SIP revision submitted on August 11, 2016. Specifically, we are proposing to find that the following elements have satisfied the federal requirement:

- the State's identification of BART-eligible sources,
- the State's determination that Sid Richardson Addis Plant is not subject to BART,
- the State's BART determinations for Phillips 66, Eco-Services, and Mosaic.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available control technology.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 11, 2016.

Ron Curry,
Regional Administrator, Region 6.

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